

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 29465 of 2007(R)

PETITIONERS:

1. P.P.LISSY, PART-TIME SWEEPER-CUM-PEON,
HIGH COURT OF KERALA, ERNAKULAM.
2. P.A.MAIDILI, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
3. PUSHPA D., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
4. SHINEE P.B., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
5. KANCHANA M.P., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
6. C.K.KARTHU, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
7. BINDU K.P.(SENIOR), PART TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
8. SOLLY M.A.,
PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
9. PRASANNA.V.P., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
10. E.S.JASMINE, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
11. PHILOMINA T.P., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
12. MANJU M.B., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
13. MAYA.S.,
PART-TIME SWEEPER,
HIGH COURT OF KERALA,
ERNAKULAM.
14. AGNUS P.M., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.

15. LATHA L, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
16. V.R.CELINE, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
17. UMA.M.L., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
18. V.T.DEVAKEY, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
19. BEEVIMOITHEEN, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
20. G.KOMALAM, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
21. B.E.THANKAMANI, PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
22. SHEELAMMA K.J.,
PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
23. BINDU K.P.(JUNIOR),
PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.
24. VANAJA N., PART-TIME SWEEPER,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI
SRI.BRIJESH MOHAN
SRI.T.R.SADEESAN

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY
SECRETARY TO GOVERNMENT, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. HIGH COURT OF KERALA,
REPRESENTED BY ITS REGISTRAR GENERAL,
ERNAKULAM.

BY ADV. SRI.KRB.KAIMAL (SR.)
SRI.B.UNNIKRISHNA KAIMAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21/11/2007, ALONG WITH WPC NO. 28801 OF 2007 THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C)Nos. 29465 & 28801 of 2007

Dated this the 21st day of November 2007

JUDGMENT

Common issues are involved in these writ petitions. They have been taken up together and are being disposed of by this common judgment. Petitioners are Part-Time Sweepers in the High Court. On 31.3.2003, High Court requested the Government to sanction special allowance at the rate of Rs.200/= per month to the Part-time contingent employees working in the residence of the Judges on par with the contingent employees posted as personal staff of the Ministers/Leader of the Opposition/Government Chief Whip as per G.O.(P)1562/99/Fin. dated 12.7.1999. Request was re-iterated on 18.11.2003. Government, apparently, by its communication dated 22.10.2003 expressed its inability to agree the proposal made by the High Court for sanction of the special allowances. This Court, by a judgment dated 8.12.2004 directed the Government to re-consider the recommendation made by the Hon'ble Chief Justice and take a decision thereon. Subsequently by Ext.P1 order, Government

sanctioned special allowances and compensatory allowance in different categories including Part-time Sweepers rendering service at the residence of the Judges. As per Ext.P1, special allowance is sanctioned only with effect from the date of the order.

2. In Writ Petition No.27264/2003, this Court took the view that special allowances will have to be paid in similar circumstances with effect from 1.11.1998. Similar view has been taken in Exts.P3 and P4 judgments.

3. I have heard the writ petitions and I have taken up the writ petitions for disposal by consent of the parties.

4. In a counter affidavit filed on behalf of the second respondent, it is affirmed that the petitioners were earlier working as Part-time Sweepers/Sweeper-cum-Peon at the residence of the Judges and that earlier the High Court had requested the Government to sanction special allowance at the rate of Rs.200/= per month to the Part-time contingent employees. But by Ext.P1 order, special allowance was sanctioned only with effect from the date of the order dated 27.5.2005. This was in spite of the fact that the recommendation of the second respondent was with effect from 1.11.1998. The matter was again taken up with the Government as per Ext.R2(a)

letter dated 17.6.2005 requesting the Government to give the benefits retrospectively with effect from 1.11.1998. This was declined under Ext.R2(b) quoting Article 49 of the Kerala Financial Code. A fresh request was forwarded under Ext.R2(c) pointing out the inapplicability of Article 49 of the Financial Code. Second respondent affirmed the fact that this Court had in Exts.P3 and P4 judgments accepted a similar claim directing the said allowances to be granted in terms of Ext.P1 order, but with retrospective effect from 1.11.1998.

5. Having heard the learned counsel for the petitioner and the learned counsel for the second respondent and also the learned Government Pleader, I am of the view that the petitioners are entitled to parity of treatment with the petitioners in Exts.P3 and P4 judgments. Having accepted the recommendation made by the High Court for grant of special allowances at the rate of Rs.200/= per month, there seems to be no reason why the special allowances should not be granted for the earlier periods when services were actually rendered by the Part-time Sweepers. Recommendation was made to sanction the special allowances with effect from 1.11.1998 taking note of the date on which the said benefit was granted to the

Part-time Sweepers in the Secretariat Department.

6. In the result, the writ petitions are disposed of directing the first respondent to pass appropriate orders sanctioning the special allowances at the rate of Rs.200/= per month in favour of the petitioners with effect from 1.11.1998. Quantum of the amount to be disbursed in this regard to the petitioners shall be computed with reference to the actual periods of service rendered by the petitioners. Petitioners shall submit the details of the service rendered by them. In the case of the petitioners in Writ Petition No.29465 of 2007, the details given in Ext.P5 will be treated as adequate. Government shall pass orders, in the manner aforementioned, within a period of one month from the date of receipt of a copy of this judgment.

V.GIRI, JUDGE

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